

**Letter of Findings: 01-20140627  
Indiana Individual Income Tax  
For The Tax Years 2007-2012**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

### **HOLDING**

Individual was required to file Indiana individual income tax returns for the tax years 2007-2012 because he was an Indiana resident and received 1099-MISC income which was subject to Indiana income tax, and Individual was unable to show that he did not have additional income to support his expenditures.

### **ISSUE**

#### **I. Indiana Individual Income Tax - Imposition: Non-filer.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; IC § 6-8.1-5-4; IC § 6-8.1-10-3; [45 IAC 15-5-1](#); [45 IAC 3.1-1-1](#); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007); Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Scopelite v. Indiana Dep't of Local Gov't Fin., 939 N.E.2d 1138 (Ind. Tax Ct. 2010); Wendt LLP v. Indiana Dep't of State Revenue, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the Department's proposed assessments for 2007-2012 tax years.

### **STATEMENT OF FACTS**

Taxpayer is an Indiana resident, who had not filed his Indiana income tax returns since 2006. For the 2007-2012 tax years, the Indiana Department of Revenue ("Department") assessed taxes due based on the best information available to the Department. Furthermore, for the 2012 tax year, the Department's assessment was based upon a 1099-MISC that was discovered by the Department.

Taxpayer timely protested the assessments. An administrative phone hearing was held. This Letter of Findings ensues. Additional facts will be provided as necessary.

#### **I. Indiana Individual Income Tax - Imposition: Non-filer.**

### **DISCUSSION**

The Department found that Taxpayer is an Indiana resident who did not file his Indiana income tax returns for the tax years 2007-2012 and pay the tax due. The Department thus assessed Taxpayer Indiana income tax and interest based on the best information available to the Department.

Taxpayer did not dispute that he has been an Indiana resident. Rather, Taxpayer contended that he did not owe any Indiana income tax for the tax years because his parents gave him money to pay his expenses. Taxpayer did not contest the existence of the 1099-MISC and did not dispute the income listed on the 1099-MISC.

As a threshold issue, all tax assessments are prima facie evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. Scopelite v. Indiana Dep't of Local Gov't Fin., 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); Wendt LLP v. Indiana Dep't of State Revenue, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). The issue is whether Taxpayer meets the burden of proof demonstrating that the

Department's proposed assessment was incorrect.

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayers' Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

The investigation report stated that Taxpayer did not have proper documentation to show that his income was given to him by his parents. Taxpayer was asked during the hearing to provide documentation to show that he had no income for the tax years in dispute. Under IC § 6-8.1-5-4 Taxpayer's "must keep books and records so that the department can determine the amount if any of the person's liability. . . ." When a taxpayer lacks records the Department will assess taxes based on the best information available authorized by IC § 6-8.1-10-3(a), [45 IAC 15-5-1](#), and [45 IAC 3.1-1-1](#).

The assessment was derived from the Department's presumption that Taxpayer earned enough to support himself. The Department used data from the U.S. Bureau of Labor Statistics Consumer Expenditures 2010-2012 to determine an average amount of income needed to cover expenses, and then projected back to 2007, 2008, and 2009. Taxpayer was allowed the personal exemption and renter's deduction in calculating his taxable income.

During the hearing, Taxpayer was asked for documentation to support his assertions. Taxpayer failed to substantiate his claim that his expenses are paid by money given to him from his parents. Moreover, Taxpayer did not have any records or documents to accurately reflect his income for the years in dispute. Thus, the Department was correct in using of best information available to it to determine the assessments. Taxpayer has not met his burden to show that the Department's assessment is incorrect.

#### **FINDING**

Taxpayer's protest is respectfully denied.

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